CANADA AGRICULTURAL REVIEW TRIBUNAL

Annual Report
2009-2010

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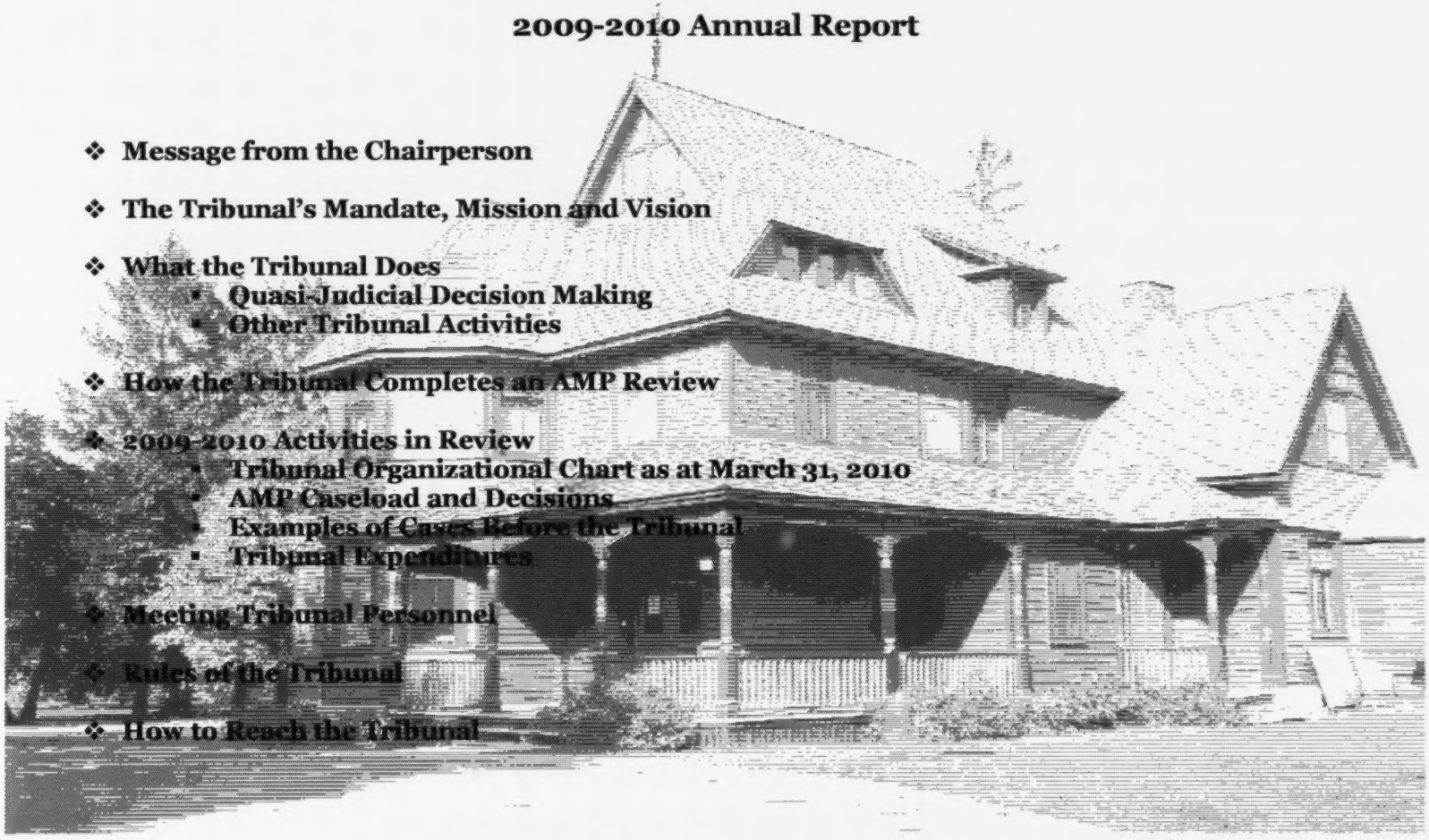
Canada Agricultural Review Tribunal/Annual Report 2009-2010

Canada Agricultural Review Tribunal

Commission de révision agricole du Canada

2009-2010 Annual Report



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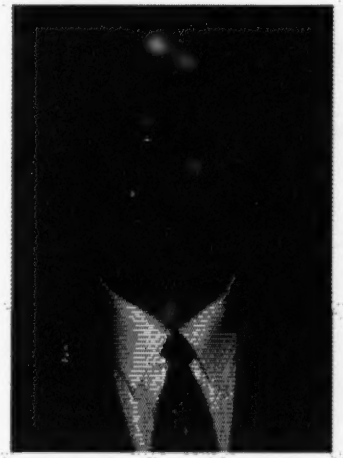
Message from the Chairperson



This report covers the fiscal year April 1, 2009 to March 31, 2010 and is the Canada Agricultural Review Tribunal's second annual report. It constitutes the first report for which I have been at the Tribunal's helm. It has indeed been a busy year at the Tribunal, as well as one of transition. The fiscal year started with Thomas Barton, Chairperson for the past 11 years, officially finishing his tenure at the Tribunal on May 3, 2009. I began my term as the Tribunal's second Chairperson on July 1, 2009. Over the past year, I have undertaken new initiatives, with the assistance of Tribunal staff, to make the Tribunal more visible, accountable, and transparent.

The work of the Tribunal falls into four broad themes—quasi-judicial decision making; identity, outreach and educational activities; internal and intragovernmental management issues; and policy development initiatives. Advancements in each one of these areas have been achieved this year. This Annual Report will highlight some of the achievements and plans for next year in each of the four broad thematic areas.

The Tribunal issued 23 decisions this fiscal year. For the first time ever, those decisions came from not one or two, but three different Tribunal members—Barton (2 decisions), Lamed (9 decisions) and Buckingham (12 decisions). The Tribunal also issued its first "Practice Notes", five in total, to assist those appearing before the Tribunal. Identity and outreach achievements included new electronic identification consistent with the independence of the Tribunal (@cart-crac.gc.ca) and new physical signage in front of the Tribunal's offices. Policy development issues included proposals to various department officials and stakeholder groups outlining current work and future capacities of the Tribunal.

As Chairperson, I trust this 2009-2010 Annual Report will continue to increase the visibility, accountability and transparency of the Tribunal.

Don Buckingham

Dr. Donald Buckingham
June 30, 2010

The Tribunal's Mandate, Mission and Vision

Mandate

The Canada Agricultural Review Tribunal (Tribunal) is an independent, quasi-judicial body established by Parliament, pursuant to section 4.1 of the *Canada Agricultural Products Act* (CAP Act).

The Tribunal's primary role is to provide independent oversight, through the exercise of its review jurisdiction, of federal agencies' use of Administrative Monetary Penalties (AMP) in relation to agriculture and agri-food. These AMP systems form part of several federal agencies' "escalating scale of enforcement" providing an expeditious, non-punitive means to promote regulatory compliance. Alleged violators have the right to seek a review of certain AMP violations before the Tribunal. Three agencies – the Canadian Food Inspection Agency (CFIA), the Canada Border Services Agency (CBSA), and the Pest Management Regulatory Agency (PMRA), – currently fall under the Tribunal's review jurisdiction.

The Tribunal maintains an independent, quasi-judicial, arm's-length relationship from Agriculture and Agri-Food Canada and its Minister, as required by the provisions of the CAP Act and the *Agriculture and Agri-Food Administrative Monetary Penalties Act* (AMP Act). Subsection 4.2(1) of the CAP Act provides that no member of the Tribunal may concurrently hold employment in the federal public administration. Pursuant to subsection 8(1) of the same Act, the Tribunal is a court of record and has an official seal that is subject to judicial notice.

This legislative framework for the constitution and operation of the Tribunal demonstrates Parliament's intention for a relationship between the Minister of Agriculture and Agri-Food and the Tribunal that is mindful of the necessity for safeguarding the integrity and independence of the Tribunal to carry out its mandate. The Tribunal is responsible to Parliament through the Minister of Agriculture and Agri-Food.

Mission

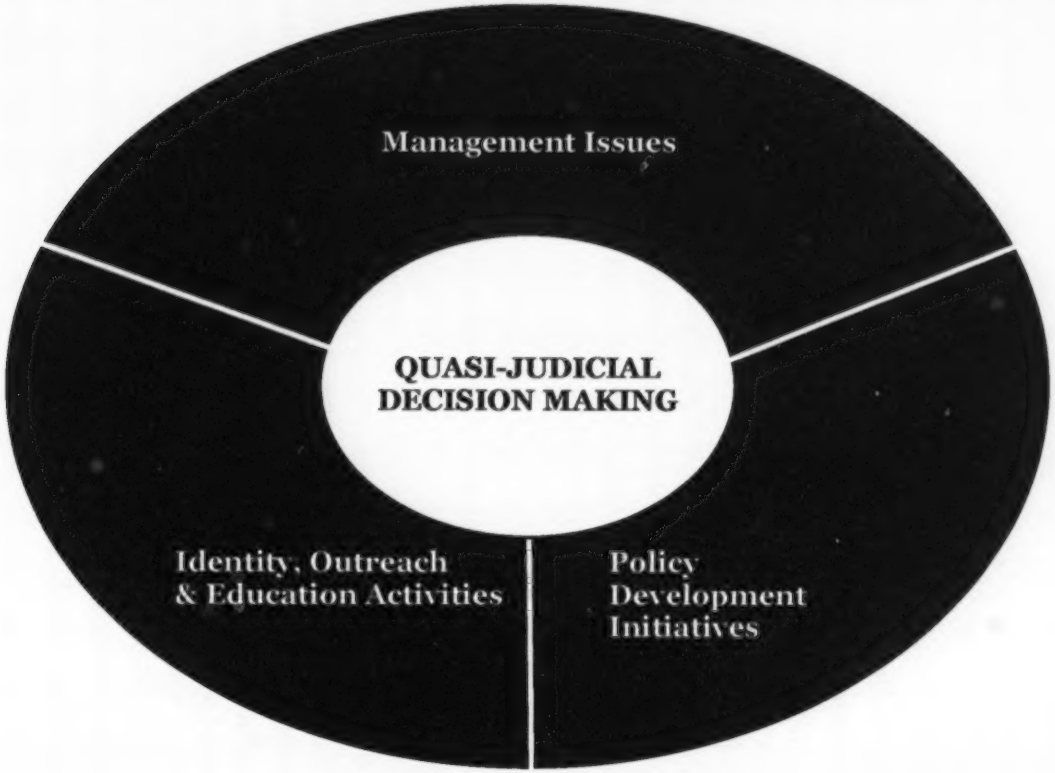
The mission of the Tribunal is to provide an independent, fair, informal and timely review of the validity of administrative monetary penalties issued to any person by a federal agency under the AMP Act.

Vision

The vision of the Tribunal is to safeguard the integrity of the AMP systems used by federal agencies to ensure compliance with agriculture and agri-food statutes. The Tribunal acts to balance the rights of Canadians while protecting the health and well-being of Canadian consumers and enhancing the economic vibrancy of Canadian agriculture.

What the Tribunal Does

The core activity of the Tribunal is to provide quasi-judicial review of Notices of Violation for contraventions specified under the *Agriculture and Agri-Food Administrative Monetary Penalties Act* and *Regulations* and reviews of decisions of the Board of Arbitration under the *Canada Agricultural Production Act*. Important ancillary activities of the Tribunal include management issues, identity, outreach & education activities, and policy development initiatives. In the pages that follow, each of these Tribunal activities will be presented in terms of accomplishments in 2009-2010 and plans and priorities for 2010-2011.



Quasi–Judicial Decision Making

There were 81 cases before the Tribunal this year. Among these cases, just under 10% (8/81) were inadmissible for review either because they were filed beyond the limitation period or because the alleged violator had already paid the violation. Of the remaining 73 cases, persons requesting a review chose to proceed by way of oral hearing in 58 cases, with 15 cases reviewed by written submissions alone. The Tribunal issued 23 decisions in 2009-2010, 16 from oral hearings and seven from reviews of written submissions alone. Of the 16 oral hearings, 10 were conducted in French and six in English. Of the seven cases reviewed by written submission alone, six involved a review conducted in English and one in French. The Tribunal heard cases in 2009-2010 in 12 centres, six in Quebec (Montreal, Granby, Rivière-du-Loup, Trois Rivières, Sherbrooke and Drummonville), three in Ontario (Ottawa, Peterborough and London), and three in western Canada (Brandon, Regina and Edmonton). Of the 73 admissible cases, 54 involved CFIA-issued Notices of Violations and 19 were from the CBSA. Of the 23 decisions issued, 11 involved the CFIA and 12 the CBSA. The Tribunal upheld Agency Notices of Violation 14 times and held them to be invalid nine times. In 2009-2010, no persons sought reviews from Notices of Violation issued by the Pest Management Regulatory Agency.

In 2009-2010, two decisions of the Tribunal were taken by a party to the Federal Court of Appeal for judicial review and await consideration by that court. As well, two decisions were rendered by the Federal Court of Appeal concerning 2008 decisions of the Tribunal. In *Doyon v. Attorney General of Canada (CFIA)* (2009 FCA 152), the Court overturned the Tribunal decision, while in *Attorney General of Canada (CFIA) v. Denfield* (2010 FCA 36), the Court overturned the Tribunal decision in part and referred the case back to the Tribunal for reconsideration.

The Tribunal completed two important procedural changes in 2009-2010. Starting with the beginning of the calendar year 2010, the Tribunal adopted the Neutral Citation Style to bring its practices for case notation and citation in line with the major courts and tribunals in Canada. In the past, Tribunal cases were assigned a sequential internal number, such as RTA #60364, which became the case's official citation. As of January 1, 2010, all Tribunal cases bear the neutral citation style as follows: YEAR CART XXX. By way of example, RTA #60364, *Kristian Morrison v. CBSA* was the first decision to which the Tribunal applied the new style and thus the case now has following official citation: 2010 CART 001, indicating to all that the decision is the first of the calendar year 2010 issued by the Canada Agricultural Review Tribunal. For the foreseeable future for continuity purposes, the former file numbering system is also displayed on the first page of the decision. The second notable accomplishment of the Tribunal was the clarification of certain practices and procedures before the Tribunal. Stakeholders have been notified of these clarifications via email in each of five "Practice Notes" which are also accessible on the Tribunal Web site.

An important priority for the Tribunal for 2010-2011 in the area of quasi-judicial decision making is to establish a benchmark of timeliness for the rendering of decisions and to apply that benchmark to ensure the timely delivery of decisions to the parties.

Other Tribunal Activities

Identity, Outreach and Education

The Tribunal has undertaken several specific efforts to become more transparent, accountable, accessible and effective in the delivery of its mandate. Throughout the year, stakeholder groups were contacted to inform them of the activities of the Tribunal. As well, each stakeholder group has received the Tribunal's first Annual Report and the five Practice Notes of the Tribunal. They will also receive a copy of this Annual Report.

In addition to continuing its dialogue with government departments and stakeholders, the top priority for improving transparancy and advancing recognition of the Tribunal's identity in 2010-2011 will be the launch of the totally revamped Tribunal Web site 2.0.

Management

Efficient and professional administration of the office requires the Chairperson, as Chief Executive Officer of the Tribunal, to have in place appropriate human resources and financial mechanisms. To advance these objectives, the Chairperson engaged in a series of one-on-one meetings with senior officials within the Central Agencies (Department of Finance, Privy Council Office and Treasury Board Secretariat) to take stock of existing human resources and financial mechanisms, which will foster an efficient and professional administration of the Tribunal.

Some specific accomplishments achieved in 2009-2010 included a systematic review of all current expenditures of the Tribunal, the development and implementation of office policies on "Labour Relations Grievance Steps Chart" and "Maintaining Office Productivity, Professionalism and Civility", and the completion for the first time of performance evaluations at fiscal year-end for all Tribunal employees.

In 2010-2011, the Tribunal will continue to develop good practices of financial management for all Tribunal spending. The Tribunal will undertake an environmental scan of its current organizational structure to determine if that structure, which has been in place for the past decade, still best facilitates the delivery of the Tribunal's mandate. As well, Tribunal personnel will be encouraged to attend training to advance their career goals and to promote the smooth and professional operation of the Tribunal.

The Tribunal will continue to complete performance evaluations at fiscal year-end for all Tribunal employees. As well, one of the top priorities of the Tribunal will be to conclude its negotiations with the Department of Agriculture and Agri-Food for a Memorandum of Agreement for Services in the areas of Human Resources and Finances.

Other Tribunal Activities

Policy Development

The Canada Agricultural Review Tribunal was created in 1983 to review decisions of the Board of Arbitration regarding the licensing of, and disputes between, fruit and vegetable dealers in Canada. In 1997, the AMP Act added a new slice of review jurisdiction to the work of the Tribunal, that being the review of the Notices of Violation issued under any of nine agri-food Acts listed in the AMP Act. In 2000 and 2001, regulations were brought into force for three of the nine agri-food Acts (*Health of Animals Act*, *Plant Protection Act*, and *Pest Control Products Act*). This new jurisdiction significantly increased the workload of the Tribunal and has become the mainstay of its activities.

The Tribunal completed its first review of a Notice of Violation under the AMP Act in the case of *Romaniuc v. CFIA* (RTA #60001) issuing its first decision on October 18, 2000. Since October 2000, hundreds of cases have come before the Tribunal for review, but always only with respect to alleged violations under the three acts mentioned above.

In 2010-2011, the Tribunal will continue to discuss the evolution of the Tribunal's constitution and mandate with the Minister and Deputy Minister of Agriculture and Agri-Food as well as with other government departments, with a view to improving the provision of existing services and, should Parliament or the Minister so wish, to provide new services to Canadians and to the Government of Canada.

Human Resources and Legal Services

In 2010-2011, the Tribunal will take steps to discuss with the Minister of Agriculture and Agri-Food and with the Deputy Minister of Justice current and future requirements for Tribunal staffing, particularly with respect to procuring legal services to secure the prudent and efficient operation of the Tribunal.

How the Tribunal Completes an Administrative Monetary Penalty (AMP) Review

A FLOW CHART OF AMP REVIEW PROCEDURES AT THE TRIBUNAL

A PERSON
Writes to the Tribunal requesting a review of a Notice of Violation (NOV) within 30 days of the date of service of the Notice of Violation from CBSA, CFIA, or PMRA

TRIBUNAL
Receives request for review and within 48 hours sends copy to Agency which issued NOV

AGENCY
Has 15 days to prepare and send its Agency Report setting out the case against the alleged violator, 2 copies to the Tribunal and 1 copy to applicant

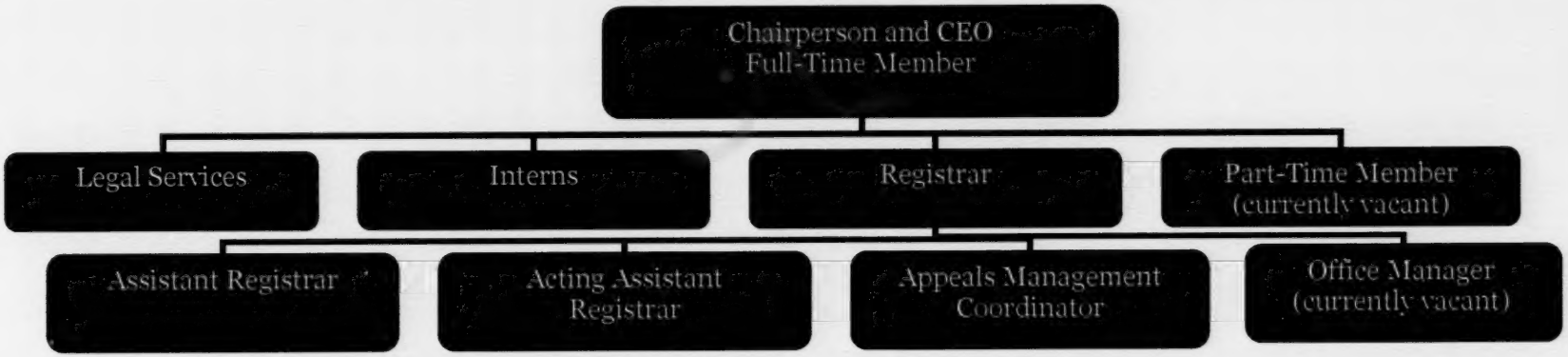
TRIBUNAL
Receives Agency Report and sends out acknowledgement letter within 48 hours to all parties who then have 30 days to submit additional information to the Tribunal

TRIBUNAL
Closes submissions and either schedules an oral hearing or the file is ready for decision by written submissions alone

TRIBUNAL
Renders its written decision either after an oral hearing or after a written file has been examined

EITHER PARTY
Can seek judicial review of the Tribunal decision before Federal Court of Appeal within 30 days after the date the Tribunal communicated its written decision to the parties

Canada Agricultural Review Tribunal
Organization Chart 2009-2010
(As of March 31, 2010)



Legend:
Blue – Governor in Council (GiC) Appointments (section 4.1 of the *Canada Agricultural Products Act*)
Grey - Specific Project Appointments (section 4.3 of the *Canada Agricultural Products Act*)
Red - Public Service of Canada Employees (subsection 6(4) of the *Canada Agricultural Products Act*)

AMP Caseload in Fiscal Year 2009-2010

		2008-2009		2009-2010
Total cases before the Tribunal		**100**		**81**
Cases which were deemed inadmissible by Tribunal[1]		**6**		**8**
Total admissible cases before Tribunal		**94**		**73**
Cases for which a hearing WAS requested	**81**		**58**	
Cases not yet scheduled		19		2
Cases with hearing scheduled		8		17
Cases with hearing held, awaiting decision		1		6
Cases withdrawn prior to a hearing		14		15
Cases withdrawn at or after hearing		0		1
Cases returned for reconsideration from F.C.A.[2]		4		1
Cases for which a decision was rendered		35		16
Cases for which a hearing WAS NOT requested (written file only):	**13**		**15**	
Cases not yet assigned		4		2
Cases assigned, awaiting decision		0		0
Cases withdrawn		1		6
Cases for which a decision was rendered		8		7
Total decisions rendered by Tribunal[3]	**43**		**23**	
Cases reviewed at hearing & dismissed (decision of Agency upheld)		26		9
Cases reviewed at hearing & allowed (decision of Agency overturned)		9		7
Cases reviewed by written file & dismissed (decision of Agency upheld)		7		5
Cases reviewed by written file & allowed (decision of Agency overturned)		1		2
Review of Tribunal decisions at the Federal Court of Appeal	**8**		**5**	
Cases filed[4]		3		2
Cases heard, awaiting decision		0		0
Cases withdrawn[5]		0		1
Cases dismissed (Tribunal decision upheld)[6]		1		0
Cases allowed (Tribunal decision overturned)[7]		4		2

[1] Includes cases for which penalties have already been paid (2008-2009 (0); 2009–2010 (5)) and requests for review received beyond allowable time limits (2008-2009 (6); 2009-2010 (3)).

[2] ***2008-2009:*** *Maple Lodge Farms Ltd. v. CFIA (RTA# 60291)*, rendered by F.C.A. on February 4, 2009, *Maple Lodge Farms Ltd. v. CFIA (RTA# 60295)*, rendered by F.C.A. on February 4, 2009, *Maple Lodge Farms Ltd. v. CFIA (RTA# 60296)*, rendered by F.C.A. on February 4, 2009, *Maple Lodge Farms Ltd. v. CFIA (RTA # 60297)*, rendered by F.C.A. on February 4, 2009 (F.C.A numbers A-187-08,A-189-08, A-190-08, A-190-08 and A-191-08). ***2009–2010:*** *CFIA v. Denfield (RTA #60328)* rendered by F.C.A. on February 3, 2010, *2010 (2010 FCA 36; A-575-08).*

[3] Total decisions equal decisions for cases with oral hearing plus case by written submissions alone (**2008-2009**; 35+8). **2009-2010** (16+7).

[4] **2008-2009**: *Doyon v. CFIA* (RTA #60323) August 26, 2008, filed with F.C.A. on October 9, 2008, *Doyon v. Canada (Attorney General)* (2009 FCA 152), rendered by F.C.A. on May 13, 2009; *Denfield Livestock Sales Limited* v. CFIA (RTA# 60328) October 21, 2008, filed with F.C.A. on November 19, 2008, rendered by F.C.A. on February 3, 2010 (2010 FCA 36; A-575-08); *Vold, Jones and Vold Auction Co. Ltd.* v. CFIA (RTA# 60330) October 28, 2008, filed with F.C.A. on November 26, 2008. **2009–2010**: *Ouellet v. CFIA* (RTA #60361) October 25, 2009, filed with F.C.A. on January 5, 2010 (A-10-A-2); *Rosemont Livestock v. CFIA* (RTA #60367) January 25, 2010, filed with F.C.A on February 26, 2010 (A-82-10).

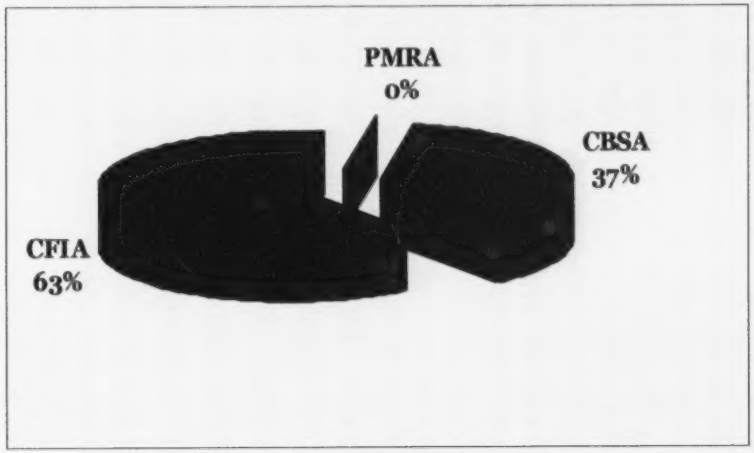
[5] **2009-2010**:*Vold v. CFIA* (RTA #60330) October 28, 2008, filed with F.C.A on November 26, 2008 (A-586-08), preliminary matter decided by F.C.A (2009 FCA 192; A-586-08), withdrawn by "Notice of Discontinuance" by Attorney General of Canada, March 18, 2010.

[6] **2008-2009**: *Edwards Livestock Hauling Ltd. v. CFIA* (RTA# 60286), rendered by F.C.A. on June 25, 2008 (2008 FCA 224).

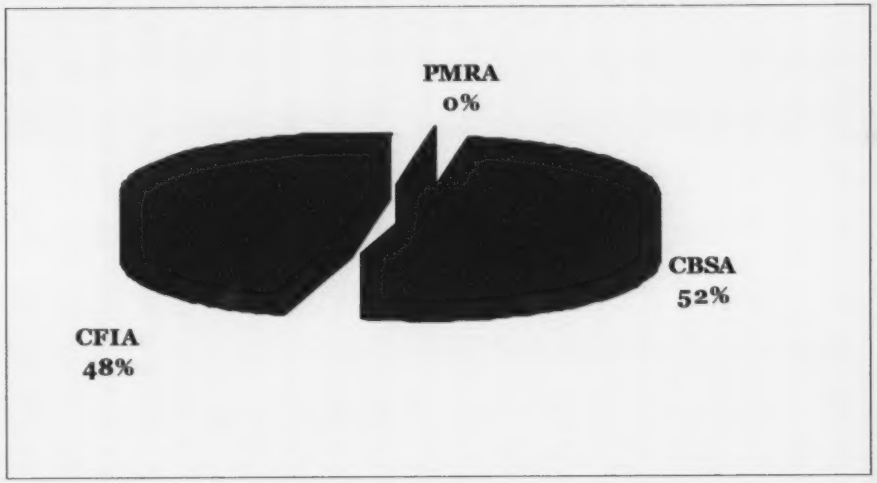
[7] **2008-2009**: Four *Maple Lodge Farms Ltd.* cases, see footnote 2; ***2009-2010:*** *Doyon v. CFIA* (RTA #60323) August 26, 2008, rendered by F.C.A on May 13, 2009 (2009 FCA 152; A-513-08); *CFIA v. Denfield* (RTA #60328) rendered by F.C.A. on February 3, 2010 (2010 FCA 36; A-575-08).

AMP Decisions in Fiscal Year 2009-2010

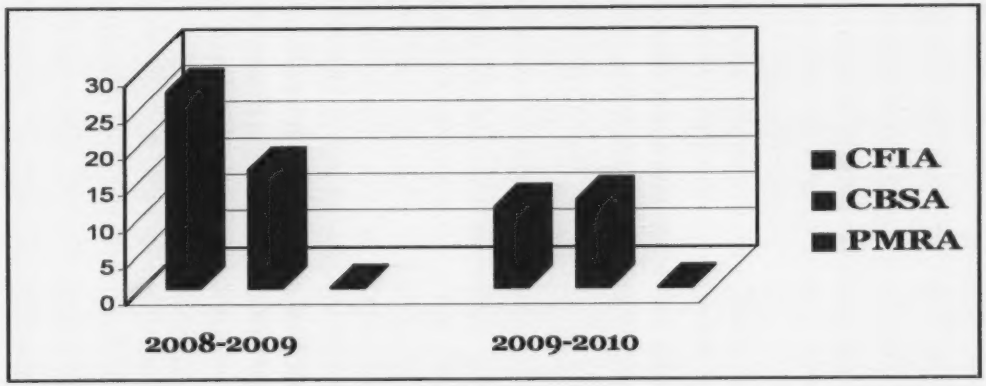
Fiscal Year April 1, 2008– March 31, 2009



Fiscal Year April 1, 2009 – March 31, 2010



Number of Decisions



Examples of Cases Before the Tribunal

J.A.A. v. CBSA (A60363) (Review by written submissions alone)
J.A.A. was entering Canada at the Lester B. Pearson Airport in Toronto, Ontario and had seven onions, nine eggplants, seeds for propagation, and two yams. The CBSA alleged that the individual failed to declare plant products at the time of importation or inspection and failed to correctly answer on the CBSA Declaration Card if he/she was bringing into Canada any seeds, plants, or vegetables. Consequently, J.A.A. was issued a Notice of Violation with a monetary penalty of $200.00. J.A.A. requested a review by the Tribunal of the facts of the violation with monetary penalty. The Tribunal, after reviewing all written submissions, found J.A.A. had the specified items in his/her baggage, had failed to declare them and therefore committed the violation and was liable for payment of $200.00 to the Receiver General for Canada.

Date of Alleged Violation: July 25, 2009
Date of Request for Review: August 7, 2009
Date of Tribunal Decision: December 18, 2009

R.L. v. CFIA [2010 CART 004] (A60367) (Review by oral hearing held in Regina, Saskatchewan)
R.L. is a registered company in Ontario that was served a Notice of Violation with monetary penalty in the amount of $500 from the CFIA on the grounds that R.L. transported or caused to be transported six lambs which were not tagged with an approved identification tag, as is required under the *Health of Animals Regulations*.

R.L. had bought lambs from a farm in Saskatchewan and testified that all of the purchased lambs were tagged and loaded onto a truck for transport to a stockyard in Ontario. Days later, a CFIA inspector found six untagged lambs at the stockyard in Ontario and served a Notice of Violation with monetary penalty to R.L. for not having tagged the lambs. The issue in this case was whether or not the lambs found by the inspector were ones that R.L. caused to be transported and, if the lambs were ones that R.L. caused to be transported, whether the lambs were without approved tags during their transport from Saskatchewan to Ontario.

R.L. requested a review by the Tribunal of the facts of the violation with monetary penalty. The Tribunal found that the CFIA was unable to provide sufficient evidence that the CFIA Inspector had identified the untagged lambs as belonging to R.L. A clear causal chain was not proved by the CFIA that the untagged lambs were actually untagged prior to their arrival at the stockyard. Consequently, the Tribunal found R.L did not commit the alleged violation and was not liable for payment, on the grounds of insufficient evidence. This case is significant because it emphasizes the important burden on the CFIA to prove a violation and the legal burden of persuasion. The CFIA has since requested judicial review of the Tribunal's decision before the Federal Court of Appeal.

Date of Alleged Violation: January 19, 2009
Date of Request for Review: June 4, 2009
Date of Hearing: December 10, 2009
Date of Tribunal Decision: January 25, 2010

Tribunal Expenditures

	2008-2009	2009-2010
Salaries and Benefits	380,254	398,881
Hearings and Travel Expenses	24,539	16,458
Property & Equipment Rental and Maintenance	36,407	39,596
Postage, Courier and Telecommunications	5,305	4,268
Publishing, Printing and Outreach Education	28	3,551
Training, Meetings and Conferences	0	4,385
Professional, Special and Contract Services	19, 912	21,620
Material, Supplies, and Related Misc. Expenses	6,966	12,342
TOTAL	**473,411**	**501,101**

Meeting Tribunal Personnel

Chairperson and CEO

Dr. Buckingham completed his Bachelors degree in French and Philosophy, and a Masters degree in development studies before entering law school. After a Bachelor of Laws from the University of Saskatchewan and a Masters level law degree from the University of Cambridge, Dr. Buckingham completed a joint Doctorate in Law from the University of Ottawa and Université Montpellier 1. Dr. Buckingham has been a member of the Law Society of Upper Canada since 1988. As a law professor at the Universities of Western Ontario, Saskatchewan, and Ottawa, Dr. Buckingham taught courses and conducted research on agriculture law, food law, constitutional law, administrative law, international law and tort law. He is co-author of five books, including *Agriculture Law in Canada* (1999), and sole author of *Halsbury's Laws of Canada: Agriculture* (2009) and *Halsbury's Laws of Canada: Food* (2009).

Past Members of the Tribunal

Chairperson and CEO 1998 – 2009	Thomas Barton
Part-time Member 2003 – 2005	Peter Annis
Part-time Member 2006 – 2009	Helena Lamed

Interns

A new feature of the personnel profile at the Tribunal is the recruitment of university student interns. Two individuals this year came to the Tribunal to develop job skills while assisting the Tribunal with its workload. A hands-on, unpaid internship at a work placement in the Nation's Capital on the Canada's Central Experimental Farm is very much appreciated by the student interns and assists the Tribunal's small staff to complete on-going projects.

Interns at the Tribunal in 2009-2010

September – December 2009	Jeana Schuurman	Political Studies Major with Business Administration Minor
January – April 2010	Priscilla Wingenbach	Political Studies Major

Rules of the Review Tribunal (Agriculture and Agri-Food), SOR/99-451

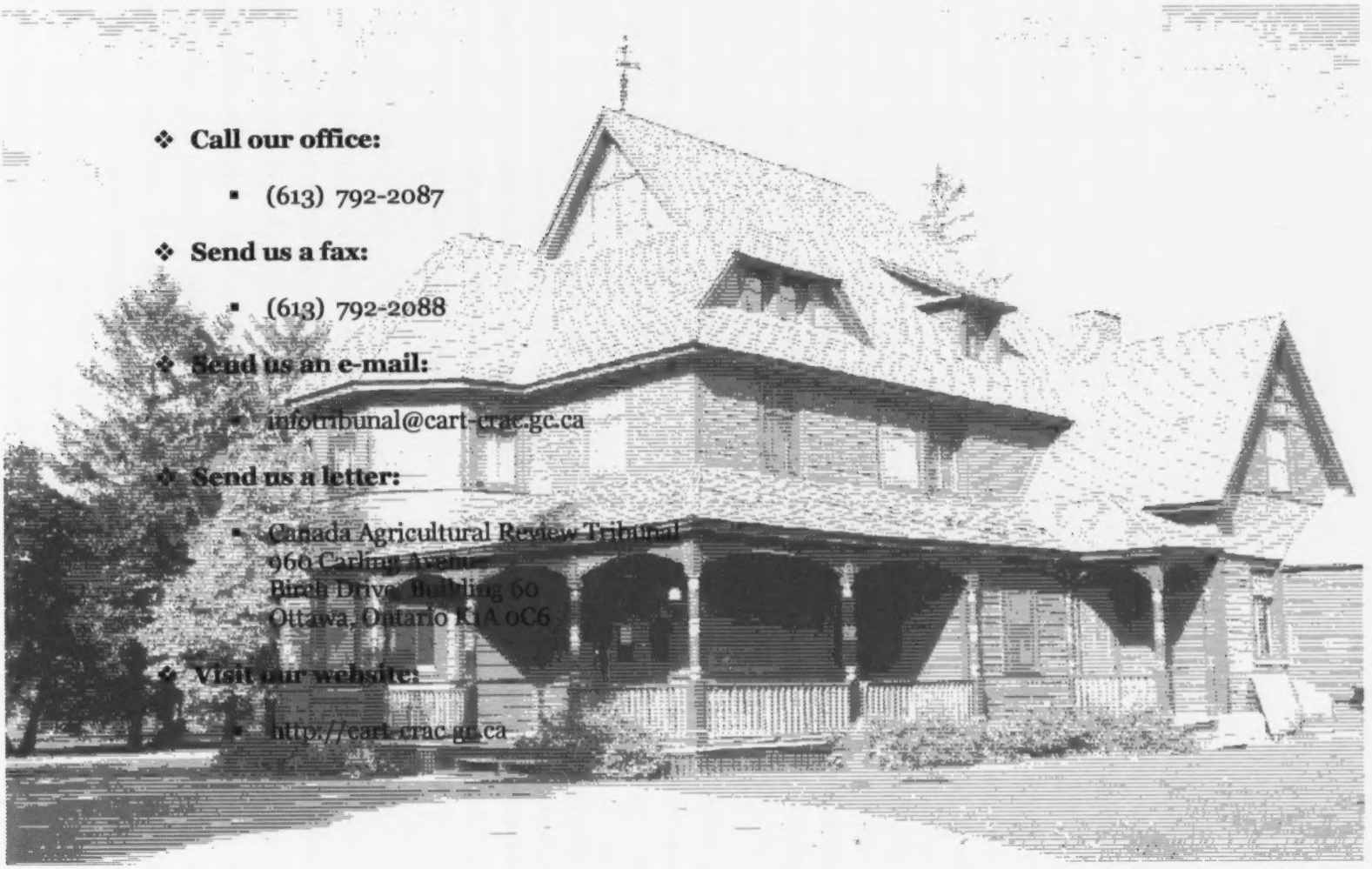
(Registration: November 25, 1999)

1. (1) The definitions in this subsection apply in these Rules.
"appellant" means a person who applies under the Canada Agricultural Products Act for a review by the Tribunal of a decision of the Board made under that Act.
"applicant" means a person who requests a review by the Tribunal under the Agriculture and Agri-Food Administrative Monetary Penalties Act.
"respondent" means a person against whom an application is made under the Canada Agricultural Products Act for a review by the Tribunal of a decision of the Board made under that Act.
(2) These Rules are to be liberally construed in order to permit the fairest, least expensive and most expeditious procedures.
2. If any question of procedure arises during a proceeding that is not covered, or not fully covered, in these Rules, the Tribunal must decide the question in a manner that is consistent with these Rules.
3. If the application of any rule would cause unfairness to a party, the Tribunal may avoid compliance with the rule.
4. A defect in form or a technical irregularity may be overlooked by the Tribunal.
5. (1) Subject to subsection (2), in calculating time limits under these Rules, all days must be counted except that if a time limit ends on a Saturday, Sunday or other statutory holiday, the time limit must be extended until the next business day.
(2) If a time limit is two days, a Saturday, Sunday or other statutory holiday must not be included in the calculation of the time limit.
6. The Tribunal may extend the time limits fixed in these Rules either before or after the end of the time limits fixed.
7. (1) A document filed with the Tribunal by a party to a review must be treated as a public document unless the party requests that the document be treated as confidential.
(2) Reasons must be given for the request that a document be given confidential treatment and, if it is alleged that disclosure would cause harm to the party, the reasons must include details of the nature and extent of the harm.
8. (1) Any documents sent to the Tribunal must be sent in duplicate.
(2) Except as otherwise provided in subsection 14(1) of the Agriculture and Agri-Food Administrative Monetary Penalties Regulations, all documents required to be submitted to the Tribunal must be submitted by hand or by registered mail, courier or facsimile.
(3) Except as otherwise provided in subsection 14(3) of the Agriculture and Agri-Food Administrative Monetary Penalties Regulations, the original and a copy of any faxed document must be sent by mail without delay after the facsimile transmission.
9. Subject to paragraph 28(b), section 32, paragraph 40(b) and section 44, all correspondence sent by the Tribunal may be sent by facsimile as long as the original is sent by mail.
10. A party must notify the Tribunal without delay of a change of address or fax number.
11. A party may be represented by counsel or by an agent authorized in writing.
12. (1) A hearing before the Tribunal may, on the request of any party to the hearing, be held in camera if that party establishes that the circumstances of the case so require.
(2) The Tribunal may order a witness at a hearing to be excluded from the hearing until called to give evidence.
13. All hearings before the Tribunal must be recorded.
14. Unless the order of proceeding has been agreed to by all parties in advance, the Tribunal must establish the order of proceeding at the start of the hearing.

15. (1) Witnesses at a hearing may be examined orally on oath or affirmation.
(2) Either party at a hearing is entitled to examine their own witnesses, to cross-examine any witnesses of the other party, and to re-examine their own witnesses for clarification.
16. The Tribunal may take notice of any matter in order to expedite any proceeding.
17. Affidavit evidence is not admissible without the consent of the party against whom the affidavit evidence is tendered.
18. (1) If a party is of the opinion that a member of the Tribunal is not in a position to act impartially, that party must without delay notify the Tribunal in writing, stating the reason for the opinion.
(2) The Tribunal must exclude the member if it is of the opinion that the reason given by that party is valid.
19. If the Tribunal decides that, due to a conflict of interest, it cannot review a matter, the review must be adjourned until a differently constituted Tribunal can deal with it.
20. This Part applies to all proceedings before the Tribunal under the Canada Agricultural Products Act.
21. The Tribunal may meet by teleconference for all purposes except for conducting hearings.
22. An application to the Tribunal for a review of a decision of the Board must be filed with the Registrar of the Tribunal and must set out the reasons for the application.
23. Within two days after receiving an application for a review by the Tribunal of a decision of the Board, the Registrar of the Tribunal must
(a) forward a copy of the application to the Board; and
(b) notify the respondent that the application has been filed by sending a copy of it, by registered mail, to the respondent.
24. Within 15 days after receiving the copy of the application for a review, the Secretary of the Board must prepare a report, containing all documentation presented to the Board and accepted by it, as well as the Board's decision, and send a copy of the report to each party and two copies of it to the Tribunal.
25. Within two days after receiving the report, the Tribunal must send an acknowledgement letter to each party indicating that the report has been received and that the parties have 30 days after the date of the letter to
(a) submit any additional information or representations, including any transcript of the Board hearing and any new evidence that was not available at the time of the Board's hearing; and
(b) request a hearing.
26. The Tribunal is responsible for ensuring that all information and representations submitted to it are available to all parties.
27. (1) The Tribunal may request its Registrar to arrange a pre-hearing conference if a hearing is to be held and the Tribunal is of the opinion that the pre-hearing conference might expedite the proceedings.
(2) After any pre-hearing conference, the Registrar must summarize the matters that were agreed to by the parties and must send a copy of the summary to the parties and the Tribunal.
(3) No communication may be made to the Tribunal with respect to any statement made at the pre-hearing conference except as disclosed in the summary.
28. After the end of the 30-day period referred to in section 25, the Tribunal must
(a) if a hearing is not requested by either party, render a decision based on the material received from the Secretary of the Board and the parties; and
(b) if a hearing is requested by either party, send a notice of hearing to all parties, by registered mail, 30 days before the scheduled date of the hearing.
29. If a party does not appear at a hearing and the Tribunal is satisfied that notice of the hearing was sent to the party in accordance with paragraph 28(b), the Tribunal may proceed in the party's absence.
30. A hearing may be postponed or adjourned by the Tribunal from time to time on any terms that the Tribunal considers appropriate.
31. The Tribunal may render a decision orally at the end of a hearing or it may render its decision at a later date.

32. The Tribunal must put its decision referred to in paragraph 28(a) or section 31 in writing and send a copy of it by mail to all parties without delay.
33. This Part applies to all proceedings before the Tribunal under the Agriculture and Agri-Food Administrative Penalties Act.
34. An applicant who requests a review by the Tribunal must indicate the reasons for the request, the language of preference and, if the notice of violation sets out a penalty, whether or not a hearing is requested.
Copy to be sent to Minister
35. The Tribunal must send a copy of the request for review to the Minister within two days after receiving it.
36. (1) Within 15 days from the day on which the Minister receives the copy of the request for a review, the Minister must prepare a report that includes
(a) any information relating to the violation; and
(b) if the request is made under subsection 11(1) or 13(2) of the Agriculture and Agri-Food Administrative Monetary Penalties Act, any information relating to the violation and the decision of the Minister referred to in that subsection.
(2) Within the period referred to in subsection (1), the Minister must send one copy of the report to the applicant and two copies to the Tribunal.
37. Within two days after receiving the report, the Tribunal must send an acknowledgement letter to each party indicating that the report has been received and that the parties have 30 days after the date of the letter to submit any additional information or representations including any documents or other evidence.
38. The Tribunal is responsible for ensuring that all information and representations submitted to it are available to all parties.
39. (1) The Tribunal may request its Registrar to arrange a pre-hearing conference if a hearing is requested and the Tribunal is of the opinion that the pre-hearing conference might expedite the proceedings regarding
(a) the admission or proof of certain facts;
(b) any procedural matter;
(c) the exchange between the parties of documents and exhibits proposed to be submitted during the hearing;
(d) the need to call particular witnesses; and
(e) any other matter that may aid in the simplification of the evidence or that may facilitate the conduct of the hearing.
(2) After any pre-hearing conference, the Registrar must summarize the matters that were agreed to by the parties and must send a copy of the summary to the parties and the Tribunal.
(3) No communication may be made to the Tribunal with respect to any statement made at the pre-hearing conference except as disclosed in the summary.
40. After the end of the 30-day period referred to in section 37, the Tribunal must
(a) if a hearing is not requested by the applicant, render a decision based on the material received from the parties; and
(b) if a hearing is requested by the applicant, send a notice of hearing to all parties, by registered mail, 30 days before the scheduled date of the hearing.
41. If a party does not appear at a hearing and the Tribunal is satisfied that notice of the hearing was sent to the party in accordance with paragraph 40(b), the Tribunal may proceed in the party's absence.
42. A hearing may be postponed or adjourned by the Tribunal from time to time on any terms that the Tribunal considers appropriate.
43. The Tribunal may render a decision orally at the end of a hearing or it may render its decision at a later date.
44. The Tribunal must put its decision referred to in paragraph 40(a) or section 43 in writing and send a copy of it by mail to all parties without delay.
45. These Rules come into force on the day on which they are registered.

How to Reach the Tribunal



- **Call our office:**
  - (613) 792-2087
- **Send us a fax:**
  - (613) 792-2088
- **Send us an e-mail:**
  - infotribunal@cart-crac.gc.ca
- **Send us a letter:**
  - Canada Agricultural Review Tribunal
    960 Carling Avenue
    Birch Drive, Building 60
    Ottawa, Ontario K1A 0C6
- **Visit our website:**
  - http://cart-crac.gc.ca